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Date: December 1, 2008 Name: Kent E. Genin Signature: /Kent E. Genin/

Case No. 6298/431

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

George Baran

Examiner: Chapman, Ginger T.

Serial No: 10/606,442

Group Art Unit: 3761

Filed: June 25, 2003

Conf. No.: 2937

For: NEBULIZING CATHETER SYSTEM
AND METHODS OF USE AND
MANUFACTURE

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Mail Stop Issue Fee
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Allowance mailed September 16, 2008, Applicant provides the following comments on the Examiner's statement of reasons for allowance.

Reasons for allowance are only warranted in instances in which "the record of the prosecution as a whole does not make clear the Examiner's reason for allowing a claim or claims" 37 C.F.R. 1.104(e). In the present case, Applicant believes the record as a whole makes clear the reasons for allowance and therefore no statement by the Examiner is necessary or warranted. Therefore, the record should reflect that Applicant does not necessarily agree with the statement and the reasons for allowance.

For example, the Examiner addresses the claims in the statement of reasons for allowance by only discussing a paraphrased portion of claim 77. Applicant's claims should be limited only by the terms used therein. In a departure from the language of the claims, the phrase "nebulizing a liquid delivered through one of the lumens to form an aerosolized gas delivered through another lumen" is mentioned in the Reasons for Allowance with respect to claim 77. This is potentially misleading and strays significantly from the language of the claims. Thus, Applicant hereby submits these comments in an effort to insure that the claims were properly construed based only upon limitations that are actually present therein and/or to insure that the claims are not interpreted so as to include any additional claim limitations that are not found in the respective claims.

Respectfully submitted,

Dated: December 1, 2008



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